

AMENDED IN ASSEMBLY JUNE 4, 2001
AMENDED IN ASSEMBLY MAY 16, 2001
AMENDED IN ASSEMBLY APRIL 30, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 653

Introduced by Assembly Member Horton

February 22, 2001

An act to amend Section 48900 of the Education Code, and to amend Sections 241.2 and 243.2 of the Penal Code, and to add Section 729.6 to the Welfare and Institutions Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 653, as amended, Horton. Crime: minors: schools.

Existing law specifies those acts for which a pupil may be suspended from school or recommended for expulsion.

This bill would, in addition, include the act of aiding, *or* abetting, ~~or encouraging~~, the infliction, *or* attempted infliction, ~~or threatened infliction~~ of physical injury to another person as an act for which a pupil may be suspended, but not expelled.

Existing law provides that an assault committed on school property against any person is punishable by a fine not exceeding \$2,000, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

This bill would instead provide that the fine could not exceed \$5,000. This bill would also ~~require that~~ *authorize the court*, where the assault was committed by a minor, ~~to order the minor be ordered by the court~~

to undergo counseling, with the cost of counseling to be borne by the minor's parents, as specified.

Existing law provides that a battery committed on school property against any person is punishable by a fine not exceeding \$2,000, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

This bill would provide that the fine could not exceed \$5,000. This bill would also ~~require that~~ *authorize the court*, where the battery was committed by a minor, *to order* the minor ~~be ordered by the court~~ to undergo counseling, with the cost of counseling to be borne by the minor's parents, as specified.

Existing law provides that any person who is under the age of 18 years when he or she violates any law or ordinance defining crimes, as specified, is within the jurisdiction of the juvenile court.

This bill would, in addition, provide that where persons are subject to the jurisdiction of the juvenile court by reason of the commission of an assault or battery on school grounds, as specified, the court shall, in addition to any other fine, sentence, or as a condition of probation, order the minor to attend counseling at the expense of the minor's parents, as specified.

~~This bill would also require the Department of Justice to conduct a public awareness campaign regarding assaults on school grounds generally, and the new penalties for that offense imposed by the bill. Operation of the provisions requiring the campaign would be contingent upon an appropriation in the Budget Act.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 48900 of the Education Code is
- 2 amended to read:
- 3 48900. A pupil may not be suspended from school or
- 4 recommended for expulsion unless the superintendent or the
- 5 principal of the school in which the pupil is enrolled determines
- 6 that the pupil has committed an act as defined pursuant to one or
- 7 more of subdivisions (a) to (o), inclusive:
- 8 (a) (1) Caused, attempted to cause, or threatened to cause
- 9 physical injury to another person.



1 (2) Willfully used force or violence upon the person of another,
2 except in self-defense.

3 (b) Possessed, sold, or otherwise furnished any firearm, knife,
4 explosive, or other dangerous object, unless, in the case of
5 possession of any object of this type, the pupil had obtained written
6 permission to possess the item from a certificated school
7 employee, which is concurred in by the principal or the designee
8 of the principal.

9 (c) Unlawfully possessed, used, sold, or otherwise furnished,
10 or been under the influence of, any controlled substance listed in
11 Chapter 2 (commencing with Section 11053) of Division 10 of the
12 Health and Safety Code, an alcoholic beverage, or an intoxicant of
13 any kind.

14 (d) Unlawfully offered, arranged, or negotiated to sell any
15 controlled substance listed in Chapter 2 (commencing with
16 Section 11053) of Division 10 of the Health and Safety Code, an
17 alcoholic beverage, or an intoxicant of any kind, and then either
18 sold, delivered, or otherwise furnished to any person another
19 liquid, substance, or material and represented the liquid,
20 substance, or material as a controlled substance, alcoholic
21 beverage, or intoxicant.

22 (e) Committed or attempted to commit robbery or extortion.

23 (f) Caused or attempted to cause damage to school property or
24 private property.

25 (g) Stolen or attempted to steal school property or private
26 property.

27 (h) Possessed or used tobacco, or any products containing
28 tobacco or nicotine products, including, but not limited to,
29 cigarettes, cigars, miniature cigars, clove cigarettes, smokeless
30 tobacco, snuff, chew packets, and betel. However, this section
31 does not prohibit use or possession by a pupil of his or her own
32 prescription products.

33 (i) Committed an obscene act or engaged in habitual profanity
34 or vulgarity.

35 (j) Unlawfully possessed or unlawfully offered, arranged, or
36 negotiated to sell any drug paraphernalia, as defined in Section
37 11014.5 of the Health and Safety Code.

38 (k) Disrupted school activities or otherwise willfully defied the
39 valid authority of supervisors, teachers, administrators, school



1 officials, or other school personnel engaged in the performance of
2 their duties.

3 (l) Knowingly received stolen school property or private
4 property.

5 (m) Possessed an imitation firearm. As used in this section,
6 “imitation firearm” means a replica of a firearm that is so
7 substantially similar in physical properties to an existing firearm
8 as to lead a reasonable person to conclude that the replica is a
9 firearm.

10 (n) Committed or attempted to commit a sexual assault as
11 defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal
12 Code or committed a sexual battery as defined in Section 243.4 of
13 the Penal Code.

14 (o) Harassed, threatened, or intimidated a pupil who is a
15 complaining witness or witness in a school disciplinary
16 proceeding for the purpose of either preventing that pupil from
17 being a witness or retaliating against that pupil for being a witness,
18 or both.

19 (p) A pupil may not be suspended or expelled for any of the acts
20 enumerated unless that act is related to school activity or school
21 attendance occurring within a school under the jurisdiction of the
22 superintendent or principal or occurring within any other school
23 district. A pupil may be suspended or expelled for acts that are
24 enumerated in this section and related to school activity or
25 attendance that occur at any time, including, but not limited to, any
26 of the following:

27 (1) While on school grounds.

28 (2) While going to or coming from school.

29 (3) During the lunch period whether on or off the campus.

30 (4) During, or while going to or coming from, a school
31 sponsored activity.

32 ~~(q) A pupil who aids, abets, or encourages the infliction,~~
33 ~~attempted infliction, or threatened infliction of physical injury to~~

34 *(q) A pupil who aids or abets the infliction or attempted*
35 *infliction of physical injury to* another person may suffer
36 suspension, but not expulsion, pursuant to the provisions of this
37 section.

38 (r) It is the intent of the Legislature that alternatives to
39 suspensions or expulsion be imposed against any pupil who is
40 truant, tardy, or otherwise absent from school activities.

SEC. 2. Section 241.2 of the Penal Code is amended to read:

241.2. (a) (1) When an assault is committed on school or park property against any person, the assault is punishable by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in the county jail not exceeding one year, or by both that fine and imprisonment.

(2) When a violation of this section is committed by a minor on school property, the court ~~shall~~ *may*, in addition to any other fine, sentence, or as a condition of probation, order the minor to attend counseling as deemed appropriate by the court at the expense of the minor's parents. The court shall take into consideration the ability of the minor's parents to pay, however, no minor shall be relieved of attending counseling because of the minor's parents' inability to pay for the counseling imposed by this section.

(b) "School," as used in this section, means any elementary school, junior high school, four-year high school, senior high school, adult school or any branch thereof, opportunity school, continuation high school, regional occupational center, evening high school, technical school, or community college.

(c) "Park," as used in this section, means any publicly maintained or operated park. It does not include any facility when used for professional sports or commercial events.

SEC. 3. Section 243.2 of the Penal Code is amended to read:

243.2. (a) (1) Except as otherwise provided in Section 243.6, when a battery is committed on school property, park property, or the grounds of a public or private hospital, against any person, the battery is punishable by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in the county jail not exceeding one year, or by both the fine and imprisonment.

(2) When a violation of this section is committed by a minor on school property, the court ~~shall~~ *may*, in addition to any other fine, sentence, or as a condition of probation, order the minor to attend counseling as deemed appropriate by the court at the expense of the minor's parents. The court shall take into consideration the ability of the minor's parents to pay, however, no minor shall be relieved of attending counseling because of the minor's parents' inability to pay for the counseling imposed by this section.

(b) For the purposes of this section, the following terms have the following meanings:

(1) "Hospital" means a facility for the diagnosis, care, and treatment of human illness that is subject to, or specifically exempted from, the licensure requirements of Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(2) "Park" means any publicly maintained or operated park. It does not include any facility when used for professional sports or commercial events.

(3) "School" means any elementary school, junior high school, four-year high school, senior high school, adult school or any branch thereof, opportunity school, continuation high school, regional occupational center, evening high school, technical school, or community college.

(c) This section shall not apply to conduct arising during the course of an otherwise lawful labor dispute.

SEC. 4. Section 729.6 is added to the Welfare and Institutions Code, to read:

729.6. If a minor is found to be a person described in Section 602 by reason of the commission of an offense described in Section 241.2 or 243.2 of the Penal Code, the court shall, in addition to any other fine, sentence, or as a condition of probation, order the minor to attend counseling at the expense of the minor's parents. The court shall take into consideration the ability of the minor's parents to pay, however, no minor shall be relieved of attending counseling because of the minor's parents' inability to pay for the counseling imposed by this section.

~~SEC. 5.—The Department of Justice shall, commencing March 1, 2002, conduct a 12-month long public awareness campaign using broadcast, print, or other appropriate media regarding the penalties for assaults and batteries on school property in general, and the requirement of counseling pursuant to this act. The operation of this section is contingent upon an appropriation by the Legislature for its purposes in the Budget Act of 2001.~~